



## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

**[Docket No. FWS-R3-ES-2021-0126; FXES11140300000-212]**

### **Aitkin-Carlton Counties Habitat Conservation Plan, Aitkin and Carlton Counties, Minnesota; Receipt of an Application for an Incidental Take Permit, Proposed Habitat Conservation Plan; Categorical Exclusion**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability of documents; request for comments and information.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, have received an application from Aitkin and Carlton Counties for an incidental take permit (ITP) under the Endangered Species Act for the proposed Aitkin-Carlton Counties Habitat Conservation Plan (HCP). If approved, the ITP would authorize the incidental take of three bat species for a 25-year period. The applicant has prepared an HCP to cover a suite of activities associated with continued forest and habitat management. We request public comment on the application, which includes the applicant's proposed HCP, and on the Service's preliminary determination that this HCP qualifies as "low-effect," categorically excluded under the National Environmental Policy Act. To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

**DATES:** We will accept comments received or postmarked on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** *Document availability:* Electronic copies of the documents this notice announces, along with public comments received, will be available online in Docket No. FWS–R3–ES–2021–0126 at <https://www.regulations.gov>.

*Comment submission:* In your comment, please specify whether your comment addresses the proposed HCP, draft environmental action statement, or any combination of the aforementioned documents, or other supporting documents. You may submit written comments by one of the following methods:

- *Online:* <https://www.regulations.gov>. Search for and submit comments on Docket No. FWS–R3–ES–2021–0126.
- *U.S. mail:* Submit comments to Public Comments Processing, Attn: Docket No. FWS–R3–ES–2021–0126; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: PRB/3W; Falls Church, VA 22041–3803.

**FOR FURTHER INFORMATION CONTACT:** Shauna Marquardt, Deputy Field Supervisor, Minnesota–Wisconsin Ecological Services Field Office, U.S. Fish and Wildlife Service, 4101 American Boulevard East, Bloomington, MN 55425; telephone: 573–239–3293; or Andrew Horton, Regional HCP Coordinator, U.S. Fish and Wildlife Service–Interior Region 3, 5600 American Blvd., West, Suite 990, Bloomington, MN 55437–1458; telephone: 612–713–5337.

Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service (Service), have received an application from Aitkin and Carlton Counties (applicants) for an incidental take permit (ITP) under the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*), for a proposed habitat conservation plan (HCP) for the northern long-eared bat, little brown bat, and tricolored bat. The applicants conduct habitat and forest management activities on county-managed lands in Aitkin and Carlton Counties,

Minnesota. The applicants have prepared an HCP that describes their continued habitat and forest management operations and measures that the applicants would implement to avoid, minimize, and mitigate incidental take of the covered species. The HCP proposes to create, enhance, and maintain more than one-third of county-managed forest lands as covered species' habitat to offset impacts of habitat and forest management activities to the covered species.

If approved, the ITP would be for a 25-year period and would authorize the incidental take of the following three species: northern long-eared bat (federally listed as threatened), little brown bat (currently under discretionary review), and tricolored bat (petitioned for listing under the ESA). The applicant has prepared an HCP that describes the actions and measures that the applicants would implement to avoid, minimize, and mitigate incidental take of the three species. We request public comment on the application, which includes the applicant's proposed HCP, and on the Service's preliminary determination that this HCP qualifies as "low-effect," categorically excluded under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.). To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

## **Background**

Section 9 of the ESA and its implementing regulations prohibit the "take" of animal species listed as endangered or threatened. Take is defined under the ESA as to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct" (16 U.S.C. 1532). However, under section 10(a) of the ESA, we may issue permits to authorize incidental take of listed species. "Incidental take" is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for endangered

and threatened species, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

### **Applicants' Proposed Project**

The applicants request a 25-year ITP to take the federally threatened northern long-eared bat (*Myotis septentrionalis*) and two species petitioned for Federal listing: the little brown bat (*Myotis lucifugus*) and the tricolored bat (*Perimyotis subflavus*). The applicant determined that take is reasonably certain to occur incidental to enactment of forest and habitat management activities on 3 percent or less of county-managed forest lands annually over a 10-year rolling period. The proposed conservation strategy in the applicant's proposed HCP is designed to avoid, minimize, and mitigate the impacts of the habitat and forest management on the covered species. The biological goals and objectives are to minimize potential take of northern long-eared, little brown, and tricolored bats through minimization measures and to provide habitat conservation measures for the covered species to offset any impacts from the implementation of habitat and forest management activities.

The authorized level of take from the project is up to a total of three northern long-eared bats, three little brown bats, and three tricolored bats over the 25-year project duration, and lost reproductive potential is anticipated to result in a loss of five additional northern long-eared bats, seven little brown bats, and seven tricolored bats over the 25-year period. To offset the impacts of the taking of northern long-eared, little brown, and tricolored bats, the applicants propose to avoid habitat-loss-related impacts from habitat and forest management by instituting avoidance measures during the management process, such as restricting forest management activities to 3 percent or less of the county-managed forests over a 10-year rolling period, limiting forest management during the bat active season to 34 percent or less of the total annual harvest and 10 percent or less during the pup season, and leaving buffers around roost trees. Beneficial and net

effects of the conservation strategy include the successful management of forests, which protect potential habitat for bats, and the creation, restoration, and maintenance of maternity roost and foraging habitat on one-third of the county-managed forest lands (a minimum of 85,387 acres), and other specific measures that minimize or avoid effects to the covered species.

### **National Environmental Policy Act**

The Service has made a preliminary determination that the applicant's project and the proposed mitigation measures would individually and cumulatively have a minor or negligible effect on the covered species and the environment. Therefore, we have preliminarily concluded that the ITP for this project would qualify for categorical exclusion, and the HCP would be low effect under our NEPA regulations at 43 CFR 46.205 and 46.210. A low-effect HCP is one that would result in (1) minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) minor or negligible effects on other environmental values or resources; and (3) incremental impacts from the Federal action that, when added to other past, present, and reasonable foreseeable future actions, would not result in significant cumulative effects to environmental values or resources over time.

### **Next Steps**

The Service will evaluate the permit application and the comments received to determine whether the application meets the requirements of section 10(a) of the ESA. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the above findings, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue the requested ITP to the applicant.

### **Public Comments**

The Service invites comments and suggestions from all interested parties on the

proposed HCP and screening form during a 30-day public comment period (see **DATES**).

In particular, information and comments regarding the following topics are requested:

1. Whether or not the significance of the impact on various aspects of the human environment has been adequately analyzed; and
2. Any threats to the northern long-eared bat, little brown bat, or tricolored bat that may influence their populations over the life of the ITP that are not addressed in the proposed HCP; and
3. Any other information pertinent to evaluating the effects of the proposed action on the human environment.

You may submit comments by one of the methods shown under **ADDRESSES**. We will post on <https://regulations.gov> all public comments and information received electronically or via hardcopy. All comments received, including names and addresses, will become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

### **Authority**

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and the NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR parts 1500–1508 (2020); 43 CFR part 46).

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